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## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB–2011–0004; T.D. TTB–98; Re: Notice Nos. 34, 42, and 117]**

**RIN: 1513–AA64**

### **Establishment of the Fort Ross-Seaview Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the 27,500-acre “Fort Ross-Seaview” viticultural area in the western part of Sonoma County, California. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**EFFECTIVE DATE:** [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Elisabeth C. Kann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Room 200E, Washington, DC 20220; phone 202–453–1039, ext. 002.

## **SUPPLEMENTARY INFORMATION:**

### **Background on Viticultural Areas**

#### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) provides for the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation, submission, and approval of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

#### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality,

reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

### Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing the establishment of an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the viticultural area;
- A narrative description of the features of the viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make it distinctive and distinguish it from adjacent areas outside the viticultural area boundary;

- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the viticultural area, with the boundary of the viticultural area clearly drawn thereon; and
- A detailed narrative description of the viticultural area boundary based on USGS map markings.

### **The 2003 Fort Ross-Seaview Petition**

Patrick Shabram, on behalf of himself and David Hirsch of Hirsch Vineyards, submitted a petition in 2003 to establish the 27,500-acre Fort Ross-Seaview American viticultural area in the western part of Sonoma County, California (the Shabram-Hirsch petition). The Shabram-Hirsch petition states that the proposed Fort Ross-Seaview viticultural area, which contains 18 commercial vineyards on 506 acres, lies close to the Pacific Ocean and about 65 miles north-northwest of San Francisco. It lies entirely within the Sonoma Coast viticultural area (27 CFR 9.116), which lies entirely within the multicounty North Coast viticultural area (27 CFR 9.30). The proposed viticultural area would not overlap, or otherwise affect, any other viticultural areas.

#### Name Evidence

In 1812, Fort Ross was established by Russian fur trappers on a bluff, lying just west of the boundary of the proposed Fort Ross-Seaview viticultural area and overlooking the Pacific Ocean, according to the Shabram-Hirsch petition. The fort served as Russia's southernmost outpost in the Pacific Northwest until it was abandoned in 1841. Since 1906, the site of the fort has been called the Fort Ross State Historic Park; a reconstructed fort now is open to

the public. Seaview is a small, unincorporated community and real estate development located along the Pacific Coast Highway (State Route 1) and located nearby and to the north of the park. Much of the Seaview community is located within the proposed viticultural area.

Fort Ross Road winds through the southern portion of the proposed Fort Ross-Seaview viticultural area, as shown on the 1978 USGS Fort Ross quadrangle map; also shown on the map are Seaview Cemetery and, extending northward in the proposed viticultural area, Seaview Road. The intersection of Fort Ross and Seaview Roads lies to the northeast of the Fort Ross State Historic Park (California State Automobile Association, "Mendocino and Sonoma Coast" map, October 2000), according to the Shabram-Hirsch petition.

The Shabram-Hirsch petition states that the location of the proposed viticultural area is commonly called "Fort Ross-Seaview" by local grape growers. In a letter to Mr. Shabram explaining the origins and usage of the proposed "Fort Ross-Seaview" name, Daniel Schoenfeld, a grape grower and longtime resident, claimed that the Fort Ross-Seaview name identifies the proposed viticultural area and distinguishes the area from other geographic place names. Although all three names, "Fort Ross," "Seaview," and "Fort Ross-Seaview," have been used to identify the area, Mr. Schoenfeld noted an increased incidence in use of the Fort Ross-Seaview name in recent years. For example, the land within and near the proposed viticultural area in the western part of Sonoma County has been called the "Fort Ross-Seaview district" ("A Miraculous Intersection: A Short

History of Viticulture and Winegrowing in Western Sonoma County” by Charles L. Sullivan, 2001), according to the Shabram-Hirsch petition.

#### Boundary Evidence

According to the Shabram-Hirsch petition, viticulture within the proposed Fort Ross-Seaview viticultural area dates to 1817, when Captain Leontii Andreianovich Hagemeister planted Peruvian grape cuttings at Fort Ross. In 1973, Michael Bohan planted two acres of grapes three miles east of Fort Ross, between Seaview Road and Creighton Ridge. In 1974, he planted another 15 acres, and, in 1976, he started selling his grape harvests to wineries in Sonoma and Santa Cruz Counties, California. In 1980, co-petitioner David Hirsch planted a vineyard between the 1,300- and 1,600-foot elevations in the Fort Ross-Seaview area, according to his April 15, 2003 letter to Mr. Shabram that was submitted as a supplemental exhibit to the petition. The petition notes that, in spring 2003, the proposed viticultural area contained 18 commercial vineyards on 506 acres.

According to the Shabram-Hirsch petition, the boundary of the proposed viticultural area generally incorporates most of the contiguous 920-foot elevation line. It also incorporates the ridges, hills, and mountains at higher elevations located along the Pacific coast near Fort Ross and Seaview in western Sonoma County. The 920-foot elevation line and the higher elevations separate the sunnier proposed viticultural area from the surrounding foggy areas, which are at lower elevations.

The western portion of the boundary line of the proposed Fort Ross-Seaview viticultural area is located between 0.5 and 2.5 miles from the Pacific coastline and mostly at or above the 920-foot elevation line, as shown on the USGS maps submitted with the Shabram-Hirsch petition. Coincidentally, the San Andreas Rift Zone runs generally parallel to and west of the western portion of the proposed boundary line and east of the Pacific coast, as shown on the USGS maps.

In his 2003 letter, Mr. Hirsch also explained that, because coastal fog does not rise above the 920-foot elevation line, the proposed viticultural area receives more hours of solar radiation than the surrounding lower elevations, which cannot support successful viticulture. “During the summer, fog usually covers the Sonoma Coast during the morning and burns off about noon,” he wrote. “This marine fog layer seldom rises above 900 feet, which explains why there are no vineyards below this elevation in the proposed area.” In addition, according to the Shabram-Hirsch petition, the moderating temperatures of the Pacific Ocean reduce the risk of nighttime freeze and frost within the proposed viticultural area.

#### Distinguishing features

The distinguishing features of the 27,500-acre proposed Fort Ross-Seaview viticultural area are topography, soils, and climate, according to the Shabram-Hirsch petition.

### *Topography*

The Shabram-Hirsch petition explains that vineyards within the proposed viticultural area are generally located on rounded ridges with summits extending above 1,200 feet. The USGS maps submitted with the petition show that the proposed viticultural area consists of steep, mountainous terrain made up of canyons, narrow valleys, ridges, and 800- to 1,800-foot peaks. The area, mainly at elevations of between 920 and 1,800 feet, has meandering, light-duty or unimproved roads and jeep trails and scattered creeks and ponds.

The Shabram-Hirsch petition did not include a description of the topography in the surrounding areas.

### *Soils*

The Shabram-Hirsch petition states that the soils consist of Yorkville, Boomer, Sobrante, Laughlin, and many other soils within the proposed Fort Ross-Seaview viticultural area (Soil Survey of Sonoma County, California, issued by the Natural Resources Conservation Service, 1990, pp. 44 and 45). Hugo soils are common in the proposed Fort Ross-Seaview viticultural area and in the mountain ranges of Sonoma County and Mendocino County to the north of the proposed viticultural area. Hugo soils are well drained, very gravelly loams derived from sandstone and shale (see publication cited above).

The Shabram-Hirsch petition states that some soils in the proposed viticultural area derived from metamorphic rocks and, to a lesser extent, igneous rocks, but most soils derived from sedimentary rocks (untitled maps, by M.E. Huffman and C.F. Armstrong, California Department of Conservation Division of



Mines and Geology, reprinted 2000). The petition also states that the sedimentary rocks in the proposed viticultural area contrast with the relatively younger sedimentary rocks that are the parent material of the soils in the area to the west and that coincide with the San Andreas Rift Zone.

The Shabram-Hirsch petition did not include any soils data for the surrounding areas, except for the area to the west mentioned above.

### *Climate*

The Shabram-Hirsch petition states that generally the proposed viticultural area is not directly affected by marine fog. In areas generally above 900 feet in elevation, the climate is influenced by longer periods of sunlight and is warmer than that in the surrounding land below 900 feet. The prevalence of marine fog below the 900-foot elevation line causes the surrounding, lower areas to be cooler and to have a shorter growing season than that in the proposed viticultural area.

According to the Shabram-Hirsch petition, the coastal fog and its effects on agriculture were studied for more than 3 decades by Robert Sisson, former County Director and Farm Advisor for Sonoma County (“Guidelines for Assessing the Viticultural Potential of Sonoma County: An Analysis of the Physical Environment,” M.A. thesis by Carol Ann Lawson, University of California, Davis, 1976). Mr. Sisson mapped the diverse climate of the lowermost, foggy coastal areas that surround some of the higher, sunnier elevations, according to the petition.

TTB notes that the Sisson system of climatic classification takes into account the amount of time that a vine is actually exposed to a certain temperature. The system uses such terms as “Coastal Cool” and “Coastal Warm,” which incorporate a method of heat summation that takes into account not only the highs and lows but the number of hours at which temperatures remain in the highly effective photosynthesis range of 70 to 90 °F. “Coastal Cool” is designated as having a cumulative duration of less than 1,000 hours between 70 °F and 90 °F in April through October.

The Shabram-Hirsch petition states that the proposed viticultural area is “Coastal Cool” (“Climate Types of Sonoma County,” map, Vassen, 1986). The area can support viticulture, in contrast to the surrounding, lower-elevation, cooler, less sunny, marine climatic areas that cannot sustain viticulture, according to the petition.

The Shabram-Hirsch petition also states that the proposed Fort Ross-Seaview viticultural area is in the heaviest fog intrusion area, spanning the entire coast of Sonoma County (“Lines of Heaviest and Average Maximum Fog Intrusion for Sonoma County,” map, by Carol Ann Lawson, 1976). However, TTB notes that this map does not detail the heavy fog line from the contrasting warmer and sunnier microclimates at higher elevations, such as that which exists in the proposed viticultural area.

The Shabram-Hirsch petition states that the water temperature of the ocean off the Pacific coast to the west of the proposed viticultural area rarely rises above 60 degrees Fahrenheit. From mid-spring to fall, a fogbank is created

offshore that moves inland through low-elevation mountain gaps and valleys. The fog, rarely rising above the 900-foot elevation line, cools temperatures on shore and reduces sunshine in the early mornings and late afternoons at elevations of 900 feet or less. Consequently, the proposed viticultural area, which lies mainly between the 920- and 1,800-foot elevation lines, receives less fog and more sun during the growing season than the surrounding, lower areas.

The Shabram-Hirsch petition compares the proposed Fort Ross-Seaview viticultural area to the southwestern portion of the Sonoma Coast and nearby Russian River Valley viticultural areas. Those areas, to the southwest and to the northeast, respectively, have cool and comparatively less sunny climates because they generally receive marine fog and do not lie above the fog line.

The Shabram-Hirsch petition states that temperatures are roughly comparable during the coolest part of the year at Fort Ross State Historic Park at the 112-foot elevation level, just west of the proposed boundary, and at Campmeeting Ridge in Seaview at the 1,220-foot elevation level, located within the proposed viticultural area (“Unique Climatic and Environmental Characteristics of the Proposed Fort Ross-Seaview Viticultural Area,” 2001, by Patrick L. Shabram). However, daily high temperatures during the growing season May through October and daily low temperatures in June and from August through October are warmer on the ridge than at the park, according to the petition. Significant growing season temperature variations occur at points between these lower and higher elevations (see publication cited above).

## **Notices of Proposed Rulemaking and Comments Received**

TTB published Notice No. 34 regarding the proposed Fort Ross-Seaview viticultural area in the **Federal Register** on March 8, 2005 (70 FR 11174). In Notice No. 34, TTB invited comments from all interested members of the public on or before May 9, 2005. In response to a request from an industry member, TTB subsequently extended the comment period of Notice No. 34 from May 12, 2005 until June 8, 2005 (see Notice No. 42, published in the **Federal Register** at 70 FR 25000 (May 12, 2005)).

In Notice No. 34, TTB specifically invited comments regarding whether “Ft. Ross-Seaview,” “Fort Ross,” “Ft. Ross,” and “Seaview” should be designated as terms of viticultural significance in addition to the full “Fort Ross-Seaview” name. TTB also solicited comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition.

### Comments Received in Response to Notice No. 34

TTB received seven comments in response to Notice No. 34. Two comments support the petition without qualification, and a third commenter supports the proposed viticultural area but expressed concern about a potential conflict with his brand name if “Fort Ross” or Ft. Ross” alone are designated as terms of viticultural significance. Four additional comments oppose the petition on the ground that the proposed boundary line excludes a region to the north that the commenters contend has similar geographical features as the petitioned-for viticultural area.

The commenters in support of Notice No. 34 include co-petitioner David Hirsch, of Hirsch Vineyards, who has been growing wine grapes at a vineyard at an elevation of 1,500 feet in the proposed Fort Ross-Seaview viticultural area since 1980. In comment 2, Mr. Hirsch explains the importance of the area's marine-influenced climate, soils, and topography in producing premium grapes in the region. In comment 4, two local grape-growers that have been operating their vineyard on a 1,500-foot elevation ridgetop in the proposed viticultural area since 1982 explain that grape growing is part of the heritage of the Fort Ross-Seaview region. Both comments 2 and 4 emphasize that the establishment of the proposed viticultural area would help consumers identify wines made from grapes grown in the proposed Fort Ross-Seaview viticultural area.

In addition, in comment 3, a local vineyard and winery owner generally supports the establishment of the proposed viticultural area, but the owner opposes the designation of "Fort Ross" and "Ft. Ross" as viticulturally significant terms because it would create a conflict with the owner's trademarked "Fort Ross Winery" and "Fort Ross Vineyard" names, which the owner states would cause irreparable economic hardship and potentially cause consumer confusion.

Four additional comments, Nos. 1, 5, 6, and 7, oppose Notice No. 34 based on the proposed boundary line and propose an alternate boundary line that would include an additional area to the north. According to the four opposing commenters, all of whom own vineyards and/or wineries in the area to the north of the proposed viticultural area (the Northern Commenters), the vineyards in that area have the same distinguishing features and characteristics as the vineyards

located within the proposed Fort Ross-Seaview viticultural area to the south. The Northern Commenters contend that the northern portion of the proposed boundary line should extend northward to Buckeye Creek, which would include a region generally referred to as the “Annapolis area.” In addition, two of the Northern Commenters also express concern about the use of the “Fort Ross-Seaview” name, explaining that the “Fort Ross” name is used by the Fort Ross Winery and that the “Seaview” name is used by an Australian sparkling wine bottler.

In comment 5, one of the Northern Commenters suggested that TTB delay establishing the Fort Ross-Seaview viticultural area to allow the growers in the northern area the opportunity to gather and submit documentation supporting a northern expansion of the 27,500-acre proposed Fort Ross-Seaview viticultural area (the Northern Addition). TTB agreed to a delay, and on November 11, 2005, the Northern Commenters submitted a petition, USGS maps, and a written boundary description for a proposed expansion of the 27,500-acre proposed Fort Ross-Seaview viticultural area to include the Northern Addition (the Northern Addition petition).

#### The Northern Addition Petition

In the Northern Addition petition, the Northern Commenters petitioned for a 15,726-acre expansion of the proposed Fort Ross-Seaview viticultural area, which included 28 commercial vineyards on about 900 acres as of November 11, 2005. The documentation included a narrative explaining the basis for the proposal as well as supporting evidence relating to the historic name usage and

distinguishing features of the Northern Addition. According to the Northern Addition petition, the Northern Addition is well-suited for commercial viticulture because the area vineyards, which are located at inland elevations between 700 and 900 feet, are protected from marine fog intrusion by parallel coastal ridges at elevations of 920 feet or higher. The coastal ridges effectively buffer the cooling fog of the Pacific Ocean from inland vineyards, according to the Northern Addition petition.

Name Evidence: The Northern Addition petition states that, since the Russian occupation of northern California, the “Fort Ross” name has continuously been used to identify the Sonoma County coastline north of the Russian River (including the proposed Fort Ross-Seaview viticultural area and the proposed Northern Addition).

Citing historical evidence relating to the Russian occupation’s effect on native populations in the early and mid-1800s and the development of the area surrounding Fort Ross by George Washington Call in the mid-1870s, the Northern Addition petition contends that the historically-recognized “Fort Ross Region” extends northward from the Russian River to approximately the Gualala River and six to nine miles inland from the Pacific coastline, and that region includes the proposed Fort Ross-Seaview viticultural area as well as the proposed Northern Addition (“The Archeology and Ethnohistory of Fort Ross, California,” by Kent G. Lightfoot, Thomas A. Wake, and Ann M. Schiff, Archaeological Research Facility, University of California at Berkeley, 1991). The Northern Addition petition further notes that the natural environment of the

“Fort Ross Region” extends, south to north, from the small coastal town of Jenner, located at the mouth of the Russian River, to the town of Gualala, located at the mouth of the Gualala River.

The Northern Addition petition adds that the “Seaview” geographical place name identifies the tiny coastal community of Seaview and Seaview Road, which the Northern Addition petition notes is “some distance” from the vineyards in the Northern Addition. The Northern Addition petition points out, however, that some vineyards in the 27,500-acre proposed Fort Ross-Seaview viticultural area are also located at similar distances from the Seaview community.

Given the distance of the Northern Addition from the Seaview community, the Northern Commenters proposed that the “Fort Ross” portion of the proposed viticultural area name be modified by an alternative geographical place name in lieu of “Seaview” that would better describe the proposed viticultural area with the 15,726-acre Northern Addition, such as “Stewarts Point” or “Annapolis.” TTB notes that “Stewarts Point” and “Annapolis” are geographical place names that refer to areas located in or near the Northern Addition and are outside the boundary line of the 27,500-acre proposed Fort Ross-Seaview viticultural area. Alternatively, the Northern Commenters suggested adding “Region” to the “Fort Ross” name or combining “Fort Ross” with “Sonoma Coast” or “Northern Sonoma Coast.”

Boundary Evidence: According to the Northern Addition petition, the proposed boundary line expansion is based on the geographical features of the 15,726-acre Northern Addition, which are similar to the distinguishing



geographical features of the proposed 27,500-acre Fort Ross-Seaview viticultural area.

The Northern Addition petition explains that the western portion of the boundary line for the proposed Fort Ross-Seaview viticultural area would combine with the western portion of the proposed boundary line for the Northern Addition. The combined boundary line follows a high-elevation ridgeline that limits the inland intrusion of cooling marine fog off the Pacific Ocean. The northernmost portion of the proposed boundary line for the Northern Addition parallels the 600- to 400-foot elevations in the area of Buckeye Creek, a tributary of the South Fork of the Gualala River, as shown on USGS maps. The Northern Addition petition states that Buckeye Creek forms a natural boundary line between higher elevation areas to the south and north. The eastern portion of the proposed boundary line for the Northern Addition follows a 600-foot elevation line and roads on ridgelines between the generally mountainous coastal terrain and the very rugged interior mountains to the east. To the southeast, the proposed boundary line for the Northern Addition joins with the northeastern portion of the boundary line of the 27,500-acre proposed Fort Ross-Seaview viticultural area, according to the Northern Addition petition.

Distinguishing Features: The Northern Addition petition contends that the proposed Northern Addition shares the same distinguishing features of topography, climate, and soils as the proposed Fort Ross-Seaview viticultural area.

*Topography:* The Northern Addition petition states that the topography is similar in both the 27,500-acre proposed Fort Ross-Seaview viticultural area and the Northern Addition. According to the Northern Addition petition, the topography of the proposed Northern Addition consists of steep mountains with 5 to 70 percent slopes, 1,500-foot ridgetops, and valleys. In addition, the first ridgeline inland from the Pacific Ocean, which buffers coastal fog, forms the western portion of the boundary line of both the 27,500-acre proposed Fort Ross-Seaview viticultural area and the proposed Northern Addition, according to the boundary descriptions.

*Climate:* The Northern Addition petition asserts that the 27,500-acre proposed Fort Ross-Seaview viticultural area and the proposed Northern Addition share a similar climate, which is the primary defining feature of the area according to the Northern Commenters.

The Northern Addition petition compares the data on average annual heat accumulation, measured in growing degree days<sup>1</sup> (GDD), for three vineyards in the proposed Fort Ross-Seaview viticultural area to similar data for a vineyard located in the proposed Northern Addition. The data for the three vineyards in the proposed Fort Ross-Seaview viticultural area originated from the Shabram-Hirsch petition. According to the data, which is summarized in the below table,

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<sup>1</sup> In the Winkler climatic classification system, annual heat accumulation during the growing season, measured in annual GDD, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth. Climatic region I has less than 2,500 GDD per year; region II, 2,501 to 3,000; region III, 3,001 to 3,500; region IV, 3,501 to 4,000; and region V, 4,001 or more ("General Viticulture," by Albert J. Winkler, University of California Press, 1974, pages 61–64).

all of the vineyards are located in Winkler climatic region II, which has 2,501-3,000 GDDs per year.

Vineyard	Location	Average Annual Degree Days
Jordan	27,500-acre proposed Fort Ross-Seaview viticultural area	2,605
Campmeeting Ridge	27,500-acre proposed Fort Ross-Seaview viticultural area	2,615
Nobles	27,500-acre proposed Fort Ross-Seaview viticultural area	2,580
La Crema	Northern Addition	2,580

In addition, according to the Northern Addition petition and the above data, all four vineyards have a Coastal Cool climate using the Sisson system of climactic classification cited in the Shabram-Hirsch petition, in which areas with degree day accumulations in the higher Region I or lower Region II range are considered to be Coastal Cool.

According to the Northern Addition petition, a map submitted with the Shabram-Hirsch petition that is based on Sisson's research also shows that all of the vineyards in the proposed Northern Addition are located within the Coastal Cool classification, including the lower 560- to 890-foot elevations of the vineyards in the Northern Addition (Vassen, "Climate Types of Sonoma County Map," 1986). The Northern Addition petition contends that the Marine Cold and Coastal Cool climate classifications are not rigidly divided at the 900-foot elevation line, and that the vineyards at the lower, 560- to 890-foot elevations in the proposed Northern Addition receive adequate solar radiation for grape ripening because they are surrounded by a higher elevation ridge to the west that decreases the frequency of fog intrusion and its concomitant cooling effects.

The Northern Addition petition also provides a comparison of growing season temperatures for Fort Ross State Historic Park (located at the 112-foot elevation to the west of the proposed viticultural area) and La Crema Vineyard (located in the proposed Northern Addition) to establish that both the Northern Addition and the proposed Fort Ross-Seaview viticultural area have warmer temperatures during the growing season as compared to the coastal, lower elevation Fort Ross State Historic Park. As with the proposed Fort Ross-Seaview viticultural area, the data show that the Northern Addition has average temperatures that are roughly comparable to those at Fort Ross State Historic Park when little fog occurs during the coolest part of the year and in the evenings during the growing season. By contrast, and similar to the proposed Fort Ross-Seaview viticultural area, the Northern Addition has daytime high temperatures during the growing season that are significantly higher than the growing season daytime high temperatures at Fort Ross State Historic Park. The Northern Addition petitioners attribute these significantly higher temperatures to the warming effect of solar radiation during the daytime that is similar to the growing season warming that occurs in the proposed Fort Ross-Seaview viticultural area.

The Northern Addition petition explains that the terrain of the region contributes to its distinctive climate because the high elevation ridge along the Pacific coastline blocks or slows the intrusion of marine fog currents flowing inland. According to the Northern Addition petition, the growing season climate of the proposed Fort Ross-Seaview viticultural area and the Northern Addition are similar because they both are affected by the fog-buffering caused by the

coastal ridges and hills along the northernmost portions of the Sonoma Coast viticultural area. The Northern Addition petition further notes that the mountainous terrain in the region causes nighttime cool air to drain from the surrounding ridges and hillsides to the lower elevations, thereby extending the growing season on the higher ridges and hillsides and reducing the risk of springtime frost in both the proposed Fort Ross-Seaview viticultural area and the proposed Northern Addition.

*Soils:* The Northern Addition petition states that the soils in both the proposed Fort Ross-Seaview viticultural area and the proposed Northern Addition are varied, well drained, and nonalluvial (Soil Survey of Sonoma County, California, 1972, issued by the U.S. Department of Agriculture, Natural Resources Conservation Service). Goldridge, Yorkville, Josephine, and Laughlin soils are common in both areas, and Hugo soils make up 54 percent of the proposed Fort Ross-Seaview viticultural area and 45 percent of the proposed Northern Addition (see publication cited above), according to the Northern Addition petition.

#### Shabram Response to the Northern Addition Petition

Following the submission of the Northern Addition petition, Patrick Shabram, co-author of the Shabram-Hirsch petition, submitted additional documentation to support the establishment of the 27,500-acre Fort Ross-Seaview viticultural area as originally proposed (the Shabram response).

As a general matter, the Shabram response emphasizes that the Northern Addition area, which is known as the Annapolis region, is a grape growing area

distinct and separate from the petitioned-for Fort Ross-Seaview viticultural area, notwithstanding some similar characteristics. The Shabram response further contends that the arguments presented in favor of the Northern Addition, especially the argument premised on the similar Coastal Cool climate classification in both regions, are equally applicable to other nearby California coastal regions. Accordingly, the Shabram response argues that an expansion of the proposed Fort Ross-Seaview viticultural area based on the grounds stated in the Northern Addition petition would warrant a larger expansion into other neighboring regions, including the established Mendocino Ridge viticultural area (27 CFR 9.158) to the north, established by T.D. ATF–392 (published in the **Federal Register** at 62 FR 55512 (October 27, 1997)), and the proposed Freestone-Occidental viticultural area (a petition under TTB review) to the south, both of which generally share a similar a Coastal Cool climate as a result of coastal fog and have some similar soil types. Such an expansion would create a larger, regional viticultural area more akin to the established Sonoma Coast viticultural area as compared to the smaller, local viticultural area that was sought by the Fort Ross-Seaview petitioners.

Name Evidence: The Shabram response states that the “Fort Ross-Seaview” name is not associated with the Northern Addition area, and it argues that use of the name to identify the viticulture of the Northern Addition would be confusing to consumers. According to the Shabram response, the Northern Addition area is instead recognized as a separate geographical region known as “Annapolis,” which is the reason why the area was not considered for inclusion

when the Fort Ross-Seaview growers first considered petitioning for a viticultural area. The Shabram response notes that the Northern Addition petitioners' proposed amendment of the "Fort Ross-Seaview" name to either "Fort Ross-Annapolis" or "Sonoma Coast Mountains" for the proposed expanded viticultural area (including the Northern Addition) shows that the name lacks significance in the Annapolis area.

As explained in the Shabram response, the Fort Ross-Seaview vineyard owners considered various other potential names when discussing the best geographical name for their proposed viticultural area, including but not limited to Fort Ross, Fort Ross Ridges, Seaview, and Seaview Ridges ("California's New Frontier," by Steve Heimoff, "Wine Enthusiast," July 2001). According to the Shabram response, the area vineyard owners ultimately agreed that the area is called both the "Fort Ross area" and the "Seaview area," and that both names are significant to local viticulture (see publication cited above), resulting in the proposed "Fort Ross-Seaview" name.

In further support of the proposed Fort Ross-Seaview name, the Shabram response quotes two Fort Ross vineyard owners regarding the significance of the name. One area grower, Lester Schwartz, stated in a supplemental exhibit to the petition that "[t]he petitioners chose 'Fort Ross-Seaview' because that is what locals call the area which produces fine grapes and wine" (Schwartz letter to TTB, dated May 4, 2005). Another local grower, Daniel Schoenfeld, stated in his 2004 letter to Mr. Shabram about the "Fort Ross-Seaview" name that "[t]he region that constitutes the proposed AVA is known as the 'Fort Ross' area, as the

‘Seaview’ area, and as the ‘Fort Ross-Seaview’ area. All three names have been used interchangeably to describe the area. ‘Fort Ross-Seaview’ has been used for a number of years in verbal communication to eliminate confusion associated with the different names” (in conversation with TTB personnel, May 18, 2004).

The Shabram response further states that writers consistently do not include the Northern Addition (or Annapolis) region when referring to the Fort Ross-Seaview area, or vice versa. As noted in the discussion of the Shabram-Hirsch petition above, Charles Sullivan used the “Fort Ross-Seaview” name to refer to the area, which was before the local growers reached a consensus on the name of the proposed viticultural area, and the Shabram Response notes that Mr. Sullivan does not mention Annapolis or the Northern Addition when discussing Fort Ross-Seaview viticulture. In addition, the Shabram response points out that the Friends of the Gualala River Web site (available at <http://gualalariver.org/>) has a map that shows the location of local Annapolis vineyards, but it does not include the vineyards in the proposed Fort Ross-Seaview viticultural area to the south.

The Shabram response also notes that the location of the vineyards of two of the Northern Addition petitioners, Brice Jones and Don Hartford, has been referred to as “Annapolis” rather than “Fort Ross-Seaview”: Mr. Jones was described as an “Annapolis vintner” in a news article (“Brice Jones, Artesa Open Routes Across Land for Animals: Annapolis Winegrowers to Establish Wildlife Corridors,” by Carol Benfell, [Santa Rosa] Press Democrat, September 11, 2001); and the Hartford Family Winery notes that the Lands Edge Vineyards



2007 Pinot Noir “is sourced predominantly from our estate’s Annapolis vineyard” (<http://www.hartfordwines.com/wines/pinotnoir/landsedge.html>).

Boundary Evidence: The Shabram response contends that there are three geographically distinctive viticultural areas in coastal Sonoma County: Annapolis (north), Fort Ross-Seaview (middle), and Freestone-Occidental (south).

As stated in “A Wine Journey along the Russian River,” a source cited in the Shabram response, Sonoma County coastal viticulture “is clustered in three areas close to the shore: Annapolis up north, near the Mendocino County line; Fort Ross in the center; and (merging these two areas into one) Occidental Ridges and Freestone, to the south (which some people refer to as the Bodega plantings)” (Steve Heimoff, University of California Press, 2005, pages 234–5). The Shabram response also refers to a map that depicts the separate vineyard clusters in the Annapolis, Fort Ross-Seaview, and Freestone-Occidental areas (“Sonoma Coast,” map no. 11, in “North American Pinot Noir,” by John Winthrop Haeger, University of California Press, 2004) and notes that none of the Fort Ross-Seaview wine growers that Mr. Heimoff specifically names in his book are located in the Annapolis area of the map.

The Shabram response explains that the Fort Ross-Seaview vineyards are clustered together along several higher ridges in close proximity to the Pacific Ocean, unlike the vineyards generally clustered at the lower elevations further inland around the town of Annapolis to the north. The Wheatfield Fork of the Gualala River is located between the two clusters of vineyards on the ridges, and

the area adjacent to the Fork is characterized by fog intrusion and a steep valley that drops to an elevation of 160 feet. Commercial viticulture is difficult, if not impossible, in the area adjacent to the Wheatfield Fork because of the fog and the steep terrain, according to the Shabram response.

The Shabram response also states that the Annapolis area consists of the ridges surrounding the Wheatfield Fork and Buckeye and Grasshopper Creeks (located in the proposed Northern Addition). By contrast, the proposed Fort Ross-Seaview viticultural area is located to the south of the Annapolis area and consists of a series of ridges that are separated from the surrounding areas by the Wheatfield Fork and the South Fork of the Gualala River and tributary creeks (“North American Pinot Noir,” page 92). The Shabram response states that further south, the Freestone-Occidental area contains ridges that are separated from one another by tributaries of Salmon Creek (see publication cited above). The Shabram response also notes that, in the Northern Addition, the vineyard closest to the northernmost vineyard in the proposed Fort Ross-Seaview viticultural area is approximately 3.5 miles away (measured in a straight line), whereas all of the vineyards within the proposed Fort Ross-Seaview viticultural area are located within an approximately 10 mile stretch, with no vineyard more than 1.5 miles away from another vineyard.

Distinguishing Features: The Shabram response states that subtle climatic and geographic differences exist between the Annapolis and Fort Ross-Seaview regions. Although both areas broadly share a Coastal Cool climate classification, the Shabram response explains that there are differences in the

nature of the coastal cooling in each area, which are largely based on the higher elevations of vineyards in the Fort Ross-Seaview area as compared to those in the Annapolis area. As a result, each area receives different amounts of total solar radiation, which in turn affects the ripening times for grapes in those areas, according to the Shabram response.

The Shabram response states that vineyards in the proposed Fort Ross-Seaview viticultural area are located at high elevations above the fog line, so they receive a full day of solar radiation. David Hirsch, Joan and Walt Flowers, and Daniel Schoenfeld, all local growers in the proposed Fort Ross-Seaview viticultural area, attested to Mr. Shabram and to Wine News magazine (Jeff Cox, “Cool Climate Pioneers—Sonoma’s Ridgetop Winegrowers Scale New Heights,” Wine News, August/September 2002) that foggy conditions transition to clear skies beginning at the 900-foot elevations of the Fort Ross-Seaview area. Although the 900-foot elevation line does not mark an absolute break in the fog, it is the best available evidence of a fog ceiling, according to the Shabram response.

Further, the Shabram response states that, although the convection and conduction of fog from the Pacific Ocean cool both the Annapolis and Fort Ross-Seaview areas, the vineyards in the Annapolis area are cooler because they are situated at lower elevations, where partial fog reduces total solar radiation, despite the presence of a ridgeline to the west that buffers the fog. For example, the Shabram response quotes a description of Peay Vineyards (located in the Northern Addition), in which it is described as sitting “on a hilltop that is not way

up in the air, but just at the top of the fog level, low enough to be very cool, but high enough not to be too cool and wet for grapes”

(<http://www.peayvineyards.com/>). [TTB notes that Peay Vineyards is located at an elevation of approximately 755 feet, as shown on a topographical map provided by the Northern Commenters.] By comparison, the vineyards in the Fort Ross-Seaview area typically are located at higher elevations that are above the fog inversion layer, so they are therefore less cooled by fog and receive greater solar radiation warming while still receiving some cooling via conduction due to the close proximity of the fog layer, according to the Shabram response.

The Shabram response also provides a statement from Vanessa Wong, a grape grower and winemaker at Peay Vineyards who has worked with vineyards located in both the proposed Fort Ross-Seaview viticultural area and the Northern Addition for the past nine vintages and has also made wines from grapes grown in both areas. Ms. Wong explains that the inversion layer of cool ocean fog persists throughout the day in her vineyards in the Northern Addition. According to Ms. Wong, coastal breezes blow cool air along unobstructed land between sea level and 1,000 feet in altitude, which is the mean top of the inversion layer. By contrast, vineyards located above the much cooler inversion layer—including vineyards located along the Fort Ross-Seaview ridges and areas further inland—have warmer temperatures.

Ms. Wong further states that grape maturity dates differ significantly between vineyards in the proposed Fort Ross-Seaview viticultural area and those in the Northern Addition. According to Ms. Wong, for the same vintage and

grape variety, the harvest dates in the Northern Addition are consistently later than those in proposed Fort Ross-Seaview viticultural area, adding that ripening generally occurs 10 to 14 days earlier in the Fort Ross-Seaview area than at the lower-elevation Peay Vineyards. Ms. Wong attributes the later ripening in the Annapolis area to the cooler temperatures in that region: “I believe that the pick dates for the Annapolis area are later than those of the Fort Ross-Seaview area because the Annapolis area is cooler than the Fort Ross-Seaview area.”

The following table, which was provided by Ms. Wong, illustrates the difference in pick dates between the Fort Ross-Seaview and Annapolis areas and shows that, for the years that Ms. Wong provided data, the pick dates of the vineyards in the proposed Fort Ross-Seaview viticultural area are significantly earlier than those of the vineyards in the Northern Addition area:

Variety	Fort Ross- Seaview Vineyard	Pick date	Annapolis Vineyard	Pick date	Pick date difference (days)
Pinot Noir- Pommard	Hirsch	9/12/02	Peay	9/23/02	11
Chardonnay	Hirsch	9/29/06	Peay	10/9/06	11
Pinot Noir 777	Nobles	9/4/09	Peay	9/18/09	14
Chardonnay	Hirsch	9/10/09	Peay	10/6/09	26

#### Determination to Reopen Public Comment Period

Given the conflicting evidence provided by the original petitioner and by the Northern Commenters with respect to the distinguishing features and boundary line of the proposed viticultural area, as well as the length of time that

had elapsed since TTB published Notice No. 34 and solicited public comments on the proposed establishment of the Fort Ross-Seaview viticultural area, TTB determined that it was appropriate to reopen the comment period for Notice No. 34 before taking any final action regarding the proposed Fort Ross-Seaview viticultural area.

Accordingly, TTB reopened the comment period for Notice No. 34 for an additional 45 days on April 21, 2011, with comments due on or before June 6, 2011 (see Notice No. 117, published in the **Federal Register** at 76 FR 22338). Notice No. 117 did not contain the details of the northern expansion documentation (referred to here as the “Northern Addition petition”) or of the Shabram response due to the length of those documents, but TTB informed the public in Notice No. 117 that those documents, as well as the original Shabram-Hirsch petition, Notice No. 34, and the original comments received in response to Notice No. 34, were posted for public viewing on Regulations.gov, the Federal e-rulemaking portal.

In Notice No. 117, TTB specifically invited comments on the following issues: (1) Whether TTB should establish the proposed “Fort Ross-Seaview” viticultural area; (2) the sufficiency and accuracy of the proposed viticultural area’s name, “Fort Ross-Seaview,” including comments on the name’s applicability to the proposed Northern Addition and any alternative names for the proposed viticultural area and the Northern Addition area; and (3) the appropriateness of the proposed viticultural area’s boundary line and whether the proposed viticultural area is limited to the area within the boundary line described

in Notice No. 34 or if it also extends further to the north as stated by the Northern Commenters.

Comments Received in Response to Notice No. 117

TTB received three comments in response to Notice No. 117, all strongly supporting the establishment of the Fort Ross-Seaview viticultural area as proposed in Notice No. 34. Two of the comments, Nos. 8 and 9, were submitted by local growers who had previously submitted supporting comments in response to Notice No. 34, Lester Schwartz of Fort Ross Vineyard & Winery LLC and David Hirsch, respectively; the third comment, No. 10, was submitted by Patrick Shabram. There were no comments submitted by the Northern Commenters in response to Notice No. 117.

The supporting comments state their opposition to the proposed Northern Addition based on the distinctiveness of the proposed Fort Ross-Seaview viticultural area and their contention that the Northern Addition (or the Annapolis area) is a separate, viticulturally distinct area. Comment 9 specifically notes the proposed viticultural area's distinctiveness based on its location, soils, and climate, stating that the area's climate is influenced by its close proximity to the ocean as well as its altitude. In comment 10, Patrick Shabram reiterates his prior contention that the main distinction between the proposed viticultural area and the Northern Addition is that the vineyards located within the proposed Fort Ross-Seaview viticultural area are located above or in close proximity to the intruding coastal fog, as compared to the Northern Addition vineyards, which are typically below the fog line. Mr. Shabram adds that various local grape growers

have attested to the fact that vineyards within the proposed Fort Ross-Seaview viticultural area are located above the fog, an assertion that Mr. Shabram notes has not been disputed by any growers inside or outside of the proposed viticultural area.

In support of the argument that the Northern Addition is a unique area that is separate and viticulturally distinct from the proposed Fort Ross-Seaview viticultural area, comments 8 and 10 refer to recent articles that recognize that the Fort Ross-Seaview and Annapolis areas are separate grape-growing areas with different climates within the larger Sonoma Coast region. For example, both comments quote an August 2, 2010 article by Eric Asimov, the chief wine critic for the New York Times, that discusses the diversity within the large Sonoma Coast viticultural area, stating that “[e]ven along the narrow swath of land close to the coast, numerous microclimates emerge, making vineyards around Annapolis to the north very different from vineyards on the ridges above Fort Ross in the appellation’s western midsection, not to mention those to the south near Freestone and Occidental” (Eric Asimov, “The Evolution of Sonoma Coast Chardonnay,” The New York Times, August 2, 2010).

Comment 10 also quotes an April 27, 2011 article from the Santa Rosa Press Democrat that similarly identifies the same “three particular coastal areas” of the Sonoma Coast and distinguishes the Annapolis area from the area to its immediate south (the location of the proposed Fort Ross-Seaview viticultural area) based on the Annapolis area’s lower elevation ridges and its location five to



six miles inland from the Pacific Ocean (Virginia Boone, “Wine Way Out West,” Santa Rosa Press Democrat, April 27, 2011).

In addition, comments 8 and 10 quote a 2009 article by the wine editor of the San Francisco Chronicle that names Peay Vineyards as its Winery of the Year and describes the cooler climate in the Annapolis area as compared to the warmer vineyards to the south (within the proposed Fort Ross-Seaview viticultural area), which are located closer to the coast but above the inversion layer: “Even by Sonoma Coast standards, Peay occupies a chilly slice of the world. While vineyards just to the south like Hirsch \* \* \* or Flowers \* \* \* may sit closer to the coast, they’re above the inversion layer. The site in Annapolis is lower, between 600 and 800 feet, with colder temperatures” (Jon Bonne, “Winery of the Year: Peay Vineyards,” San Francisco Chronicle, December 27, 2009).

In another article about Peay that is quoted in comments 8 and 10, Randy Caparoso of *Sommelier Journal* recounted Nick Peay’s description of the distinctiveness of the Annapolis area as contrasted to the Fort Ross-Seaview area to the south:

Peay attributes the tightly wound characteristics of Annapolis to the macroclimate, with temperatures typically ranging in the 60s and 70s during the growing season—as frigid as it gets in the entire county. As in Fort Ross-Seaview, days are moderated by the ocean, only 4 miles away, and nights are never too cold. But unlike Fort Ross-Seaview, he says, the lower-elevation growths near Annapolis are influenced by “unobstructed fog coming straight up the river valley each day. We are *in* the inversion layer, not above it” (Randy Caparoso, “Sonoma Extreme,” *Sommelier Journal*, January 31, 2011, pp. 70–80) (emphasis in original).

According to comment 10, Greg LaFollette, a winemaker who has worked with grape growers in various coastal Sonoma locations (including Fort Ross-

Seaview), is quoted in that same article as stating that he “always experienced much higher degree-day accumulation [in Fort Ross-Seaview]”.

Comments 8 and 10 also cite the lack of evidence demonstrating that the “Fort Ross-Seaview” name applies to the Northern Addition area as an additional reason for establishing the petitioned-for viticultural area as proposed in Notice No. 34. In comment 10, Patrick Shabram refers to his earlier argument from the Shabram response that the names “Fort Ross,” “Seaview,” or “Fort Ross-Seaview” lack viticultural significance in relation to the Northern Addition area, which is instead known as the “Annapolis area.” Noting that he was unable to find any reference to the Annapolis area as “Fort Ross,” Mr. Shabram states that a number of recent news articles refer to the Northern Addition area as “Annapolis” in conjunction with other sub-regions of the west Sonoma Coast region, including Fort-Ross Seaview and Freestone-Occidental, further underscoring his contention that the “Fort Ross” name is not used in conjunction with the proposed Northern Addition.

### **TTB Analysis**

TTB has carefully considered the comments received in response to Notice Nos. 34 and 117 and has reviewed all petition evidence and subsequent documentation received in support of, or in opposition to, the proposed Fort Ross-Seaview viticultural area, including all comments and documentation relating to the proposed Northern Addition.

### Name Evidence

The evidence submitted both by the Northern Commenters and by Mr. Shabram raised significant questions regarding whether the “Fort Ross-Seaview” name is applicable to the proposed Northern Addition.

Based on TTB’s review of the evidence provided by the Northern Commenters to support their assertion that the “Fort Ross” and “Fort Ross Region” names are used in connection with the Northern Addition area, it appears that this use of these names reflects very limited historic name usage during the Russian occupation only (1812–41); the evidence provided does not include more recent references to the area by those names. Regarding the archaeology and ethnohistory study of the Russian occupation of the Fort Ross area that the Northern Addition petition cites for a historical perspective of the occupation’s effect on native populations, TTB notes that the study details the historic boundaries of the occupation, but not the current boundary lines of the Fort Ross geographical area.

By contrast, the evidence that was submitted in the Shabram response and in comments 8 and 10 supports the original petitioners’ contention in response to the Northern Addition petition that local growers as well as the wine press recognize the Fort Ross-Seaview area as a separate and distinct area from the Annapolis area, and that the “Fort Ross-Seaview” geographical place name is commonly used by local growers to identify only the grape-growing region in the immediate area around Fort Ross and Seaview, but not the neighboring region to the north.

Accordingly, TTB has determined that the name evidence provided in the Northern Addition petition does not substantiate the Northern Commenters' assertion that the "Fort Ross-Seaview," "Fort Ross," or "Seaview" names currently apply to the Northern Addition, including the Annapolis area.

#### Boundary Line

As described in Notice No. 34, the Shabram-Hirsch petitioned-for boundary line largely incorporates the hills and mountains located along the Pacific coast near Fort Ross and Seaview in western Sonoma County that are mostly above 900 feet, which generally marks the separation between the higher, sunnier elevations of the proposed area and the surrounding lower, foggier elevations.

TTB notes that the USGS maps show a clear distinction between the Fort Ross-Seaview area and the Annapolis area to the north, with the Wheatfield Fork of the Gualala River creating a natural separation of the lower elevations of the Northern Addition from the steep, higher elevation terrain of the proposed Fort Ross-Seaview viticultural area. TTB also notes that the northernmost vineyard in the proposed Fort Ross-Seaview viticultural area is more than 3 miles from the closest vineyard in the Northern Addition, as shown on an exhibit submitted by the Northern Commenters. In contrast, as pointed out in the Shabram response, all of the vineyards within the proposed Fort Ross-Seaview viticultural area are located within an approximately 10 mile stretch, with no vineyard more than 1.5 miles away from another vineyard.

In addition, the evidence and comments submitted in this case demonstrate that there are two distinct geographical differences between the two areas that affect the proposed boundary line and suggest that they should be considered separate regions: (1) distance from the Pacific coastline; and (2) elevation. Most locations within the proposed Fort Ross-Seaview viticultural area are located only 0.5 to 2.5 miles from the Pacific coastline, whereas most locations within the Northern Addition are located 4 to 6 miles from the coastline, as shown on USGS maps. The elevation of the vineyards in the two areas is also significantly different; vineyards in the Fort Ross-Seaview area are generally located at elevations between 920 to 1,800 feet, which are above the coastal fog according to local growers and the Shabram-Hirsch petition, as compared to the lower 560- to 890-foot elevations of vineyards in the Northern Addition, which are more influenced by the marine fog.

Finally, TTB notes that the separate identities of the Fort Ross-Seaview and the Northern Addition (or Annapolis) areas have been recognized in recent newspaper articles and wine magazines. As noted above, the Shabram response and comments 8 and 10 cite to multiple articles that refer to the two regions as separate areas and describe their different grape-growing conditions, which further highlights the distinction between the proposed Fort Ross-Seaview viticultural area and the Annapolis area to the north.

TTB thus finds that the boundary line for the proposed Fort Ross-Seaview viticultural area should not include the Annapolis area to the north.

### Distinguishing Features

In Notice No. 34, the climate, topography, and soils of the proposed Fort Ross-Seaview viticultural area were identified as the area's distinguishing features. In the Northern Addition petition, the Northern Commenters contend that these same distinctive features are shared by the Northern Addition area, thus warranting a modification of the proposed boundary line to include the Northern Addition. More specifically, the Northern Addition petition asserts that both the proposed Fort Ross-Seaview viticultural area and the Northern Addition have a Coastal Cool climate and similar soil types, which is not challenged in the Shabram response.

Based on the Shabram-Hirsch petition, the Northern Addition petition, the Shabram response, and the public comments, TTB finds that there are some similarities in the soil, topography, and growing season climate of the proposed Fort Ross-Seaview viticultural area and the Northern Addition. As discussed below, however, given that both areas are wholly contained within two larger existing viticultural areas—the North Coast and Sonoma Coast viticultural areas—some general similarities in distinguishing features can be expected, especially in regard to the regional climate because both the proposed Fort Ross-Seaview viticultural area and the Northern Addition have a Coastal Cool climate, which is a distinguishing feature of the surrounding Sonoma Coast viticultural area according to T.D. ATF–253. In addition, as noted in the Shabram response, an expansion of the proposed Fort Ross-Seaview viticultural area based on the general grounds stated in the Northern Addition petition could

warrant the inclusion of other nearby coastal areas with broadly similar features. Accordingly, the general regional similarities described in the Northern Addition petition would not necessarily preclude a finding that the microclimate and specific topography of a particular area (such as the proposed Fort Ross-Seaview viticultural area) are sufficiently distinct from those of the adjacent areas as to warrant its recognition as a distinct viticultural area.

While conceding that there are some broad similarities in the climate and topography between the proposed Fort Ross-Seaview viticultural area and the Northern Addition, the Shabram-Hirsch petition, the Shabram response, and the supporting comments also assert that the proposed Fort Ross-Seaview viticultural area has warmer growing conditions with increased solar radiation due to the lack of fog at the high elevation vineyards in the area. The petitioners submitted both statistical and anecdotal evidence in support of their position.

First, the degree day data provided by the petitioners in the Shabram-Hirsch petition for three vineyards in the proposed viticultural area shows that the vineyards are in Winkler region II, and that those vineyards on average had degree days that were greater than or equal to the average degree days for the single vineyard for which data was provided by the Northern Commenters.<sup>2</sup> The average degree days for two of the vineyards within the proposed Fort Ross-Seaview viticultural area were significantly greater than the average degree days for the vineyard within the Northern Addition, and the third vineyard had an equal number of degree days on average, suggesting that the growing season

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<sup>2</sup> The degree day information from the Shabram-Hirsch petition was not included in Notice No. 34, but it was restated in the Northern Addition petition and is summarized above.

temperatures in the proposed viticultural area are somewhat warmer than those in the Northern Addition.

The pick date data provided by Ms. Wong in the Shabram response further supports the assertion that the proposed Fort Ross-Seaview viticultural area has warmer growing conditions than the Northern Addition. According to the data provided by Ms. Wong, for the same growing seasons for the same grapes, the vineyards located within the proposed viticultural area had a pick date that was significantly earlier than the pick date for the vineyard located in the Northern Addition. Ms. Wong specifically attributed the later pick dates in the Northern Addition to the cooler temperatures in the lower elevation vineyards in that area.

In addition, observations by local grape growers as well as articles in the wine press, as described above, further indicate that the higher elevation vineyards located in the proposed Fort Ross-Seaview viticultural area are warmer and receive more solar radiation than the lower elevation vineyards in the Northern Addition because the Fort Ross-Seaview vineyards are located above both the cooler temperature inversion layer as well as the fog line. As noted above, local growers in the proposed Fort Ross-Seaview viticultural area claim that their vineyards benefit from day-long solar radiation because they are located above the fog line and the cool inversion layer. This distinction has also been recognized by two winemakers in the Northern Addition—Ms. Wong and Nick Peay—with the latter contrasting his vineyards in the cooler Annapolis area to the Fort Ross-Seaview area based on the location of his vineyards in (not



above) the inversion layer and the influence of unobstructed fog in the area (Jon Bonne, "Winery of the Year: Peay Vineyards," San Francisco Chronicle, December 27, 2009; Randy Caparoso, "Sonoma Extreme," Sommelier Journal, January 31, 2011, pp. 70–80).

Finally, TTB notes that the Northern Commenters did not dispute the distinction made in the Shabram response relating to the location of the Fort Ross-Seaview vineyards above the fog line. Although the Northern Addition petition states that the lower elevation vineyards in the Northern Addition are protected from the cooling effects of marine fog intrusion by the surrounding higher elevation ridgelines, the evidence submitted with the Northern Addition petition and with other comments indicates that there is still some fog intrusion in the area. By contrast, the evidence submitted in support of the proposed Fort Ross-Seaview viticultural area demonstrates that vineyards in that area are located above the fog line, thereby resulting in warmer growing season conditions, increased solar radiation, and earlier harvest dates for those vineyards. TTB also notes that no other comments in support of the Northern Addition or in opposition to the proposed Fort Ross-Seaview viticultural area were submitted in response to Notice No. 117.

Accordingly, TTB concludes that the evidence submitted in the Shabram-Hirsch petition, in the Shabram response, and in the supporting comments is sufficient to demonstrate that the climate, topography, and other distinguishing features of the proposed Fort Ross-Seaview viticultural area are sufficiently

distinct from those of the Northern Addition to warrant the establishment of the new viticultural area originally proposed in Notice No. 34.

#### Relationship to Existing Viticultural Areas

As noted earlier in this preamble, the proposed Fort Ross-Seaview viticultural area is located entirely within the Sonoma Coast and North Coast viticultural areas. The similarities and differences between the proposed viticultural area and the surrounding Sonoma Coast and North Coast viticultural areas are addressed in the following paragraphs.

##### *North Coast Viticultural Area*

The large North Coast viticultural area was established by T.D. ATF–145 (published in the **Federal Register** at 48 FR 42973 on September 21, 1983) and includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties, California. TTB notes that the North Coast viticultural area encompasses approximately 40 established viticultural areas in northern California, in addition to the proposed Fort Ross-Seaview viticultural area. T.D. ATF–145 explicitly recognizes that “[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperatures, rainfall, and fog intrusion.” (See 48 FR 42975–42976.)

The proposed Fort Ross-Seaview viticultural area shares the overall distinguishing feature of the North Coast viticultural area: the marine influence from the Pacific Ocean that results in cooler temperatures throughout the region during the growing season. The proposed Fort Ross-Seaview viticultural area, however, is much more uniform in its geographical features than the North Coast

viticultural area as a result of its much smaller size. In this regard, T.D. ATF–145 specifically states that “approval of this viticultural area does not preclude approval of additional areas, either wholly contained with the North Coast, or partially overlapping the North Coast” and that “smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics” (see 48 FR 42976). Thus, the proposal to establish the proposed Fort Ross-Seaview viticultural area is consistent with the clear intent expressed in T.D. ATF–145.

#### *Sonoma Coast Viticultural Area*

The Sonoma Coast viticultural area was established by T.D. ATF–253 (published in the **Federal Register** at 52 FR 22302 on June 11, 1987) within the established North Coast viticultural area. T.D. ATF–253 states that the Sonoma Coast viticultural area includes only the portion of Sonoma county “which is under very strong marine climate influence.” According to T.D. ATF–253, the Sonoma Coast viticultural area has a “Coastal Cool” climate, which is shared by the proposed Fort Ross-Seaview viticultural area that would be located within the Sonoma Coast viticultural area.

Notwithstanding this broad climactic similarity, the information before TTB indicates that there are some differences in the microclimate of the proposed Fort Ross-Seaview viticultural area that distinguish it from the surrounding Sonoma Coast viticultural area. According to the Shabram-Hirsch petition, although the petitioned-for viticultural area lies a short distance from the Pacific Ocean, the elevations of the vineyards located within the proposed viticultural area are generally located above the fog line. The petition also states that the proposed

Fort Ross-Seaview viticultural area is warmer during the growing season than the surrounding areas in the Sonoma Coast viticultural area because it is located above the cool temperature inversion layer that results from the draining of cooler air from the high elevation ridges in the proposed viticultural area into the surrounding lower elevations.

The Shabram-Hirsch petition also notes that the topography of the Sonoma Coast viticultural area includes large, flat valley areas, gently rolling hilly regions, several mountainous areas, and a portion of the Russian River and its watershed, as shown on the Sonoma County USGS map. By contrast, the topography of the proposed Fort Ross-Seaview viticultural area generally is more uniform with mountains, steep slopes, and elevations mostly between 920 to 1,800 feet, as shown on USGS maps.

### **TTB Finding**

After careful review of the Shabram-Hirsch petition, the Northern Addition petition, the Shabram response, and the comments received in response to Notice Nos. 34 and 117, TTB finds that the evidence submitted supports the establishment of the 27,500-acre Fort Ross-Seaview viticultural area within the Sonoma Coast and North Coast viticultural areas as originally proposed. The evidence submitted by the Northern Commenters to support modification of the proposed boundary line to include the Northern Addition, including the Annapolis region, within the Fort Ross-Seaview viticultural area failed to establish the requisite commonality of name and distinguishing features. TTB would be willing

to consider a separate petition for the establishment of a viticultural area encompassing the Annapolis region.

In addition, TTB has determined that both “Fort Ross-Seaview” and “Ft. Ross-Seaview” are viticulturally significant. After consideration of the concerns of some commenters, TTB believes that it would not be appropriate to find that “Fort Ross” or “Ft. Ross,” standing alone, is viticulturally significant. TTB also has determined that the name “Seaview,” standing alone, does not have viticultural significance because of its wide geographical usage, both domestically and internationally. Therefore, the establishment of the Fort Ross-Seaview viticultural area will not affect use of the names “Fort Ross,” “Ft. Ross,” and “Seaview” on wine labels of domestic and foreign producers.

Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of the TTB regulations, TTB establishes the 27,500-acre “Fort Ross-Seaview” viticultural area in Sonoma County, California, effective 30 days from the publication date of this document.

#### Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document. In this final rule, TTB altered some of the language in the written boundary description provided in the petition and published as part of Notice No. 34. TTB made these alterations in the written boundary description language for clarity and to conform the written boundary description to the boundary of the proposed viticultural area as marked on the USGS maps submitted with the petition.

## Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

## **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, "Fort Ross-Seaview" and "Ft. Ross-Seaview" are recognized under 27 CFR 4.39(i)(3) as terms of viticultural significance. The text of the new regulation clarifies this point.

Once this final rule becomes effective, wine bottlers using "Fort Ross-Seaview" or "Ft. Ross-Seaview" in a brand name, including a trademark or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use "Fort Ross-Seaview" or "Ft. Ross-Seaview" as an appellation of origin. The establishment of the Fort Ross-Seaview viticultural area will not affect any existing viticultural area, and any bottlers using Sonoma Coast or North Coast as an appellation of origin or in a brand name for wines made from grapes grown within the Fort Ross-Seaview viticultural area will not be affected by the establishment of this new viticultural area.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that

name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

This rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

## **Drafting Information**

Elisabeth C. Kann of the Regulations and Rulings Division drafted this notice.

## **List of Subjects in 27 CFR Part 9**

Wine.

## **The Regulatory Amendment**

For the reasons discussed in the preamble, 27 CFR, chapter I, part 9, is amended as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

### **Subpart C—Approved American Viticultural Areas**

2. Subpart C is amended by adding § 9.221 to read as follows:

#### **§ 9.221 Fort Ross-Seaview.**

(a) Name. The name of the viticultural area described in this section is "Fort Ross-Seaview". For purposes of part 4 of this chapter, "Fort Ross-Seaview" and "Ft. Ross-Seaview" are terms of viticultural significance.

(b) Approved maps. The five United States Geological Survey 1:24,000 scale topographic maps used to determine the boundary of the Fort Ross-Seaview viticultural area are titled—

- (1) Arched Rock, California—Sonoma Co., 1977 edition;
- (2) Fort Ross, California—Sonoma Co., 1978 edition;
- (3) Plantation, California—Sonoma Co., 1977 edition;



(4) Annapolis, California–Sonoma Co., 1977 edition; and

(5) Tombs Creek, California–Sonoma Co., 1978 edition.

(c) Boundary. The Fort Ross-Seaview viticultural area is located in Sonoma County, California. The area's boundary is defined as follows:

(1) The beginning point is on the Arched Rock map at the intersection of the 920-foot elevation line and Meyers Grade Road, T8N, R12W. From the beginning point, proceed northwest on Meyers Grade Road approximately 4.3 miles, on to the Fort Ross map, to the intersection of Meyers Grade Road with Seaview and Fort Ross Roads, T8N, R12W; then

(2) Proceed northwest on Seaview Road approximately 6.4 miles, on to the Plantation map, to the intersection of Seaview Road with Kruse Ranch and Hauser Bridge Roads in the southeast corner of section 28, T9N, R13W; then

(3) Proceed west on Kruse Ranch Road approximately 0.2 mile to the intersection of Kruse Ranch Road with the 920-foot elevation line, T9N, R13W; then

(4) Proceed generally north then east along the 920-foot elevation line approximately 2.2 miles to the intersection of the elevation line with Hauser Bridge Road, section 27, T9N, R13W; then

(5) Proceed east on Hauser Bridge Road approximately 1.5 miles to the intersection of Hauser Bridge Road with the 920-foot elevation line, section 23, T9N, R13W; then

(6) Proceed generally northwest then east along the 920-foot elevation line, on to the Annapolis map, approximately 7.8 miles to the intersection of the

elevation line with an unnamed, unimproved road that forks to the south from Tin Barn Road, section 8, T9N, R13W; then

(7) Proceed east then north along the unnamed, unimproved road to the intersection of that road with Tin Barn Road, section 8, T9N, R13W; then

(8) Proceed east in a straight line approximately 1.55 miles to Haupt Creek, section 10, T9N, R13W; then

(9) Proceed generally southeast along Haupt Creek approximately 1.2 miles to the western boundary of section 11, T9N, R13W; then

(10) Proceed straight north along the western boundary of section 11 approximately 0.9 mile to the northwest corner of section 11 (near Buck Spring), T9N, R13W; then

(11) Proceed straight east along the northern boundary of section 11 and then along the northern boundary of section 12 approximately 1.1 miles to the intersection of the section 12 northern boundary with an unnamed, unimproved road along Skyline Ridge, section 12, T9N, R13W;

(12) Proceed generally southeast along the unnamed, unimproved road, on to the Tombs Creek map, approximately 1.3 miles to the intersection of that road with the 1,200-foot elevation line, section 13, T9N, R13W; then

(13) Proceed generally southeast along the 1,200-foot elevation line approximately 0.6 mile to the intersection of that elevation line with Allen Creek, section 18, T9N, R12W; then

(14) Proceed generally north along Allen Creek approximately 0.2 mile to the intersection of Allen Creek with the 920-foot elevation line, section 18, T9N, R12W; then

(15) Proceed generally east and then southeast along the meandering 920-foot elevation line, on to the Fort Ross map, to the intersection of that elevation line with Jim Creek, section 21, T9N, R12W; then

(16) Proceed generally southeast along Jim Creek approximately 0.7 mile to the northern boundary of section 27, T9N, R12W; then

(17) Proceed east along the northern boundary of section 27, T9N, R12W, to the northeast corner of section 27; then

(18) Proceed south along the eastern boundaries of sections 27 and 34, T9N, R12W, and continue south along the eastern boundaries of sections 3, 10, 15, and 22, T8N, R12W, to Fort Ross Road; then

(19) Proceed east along Fort Ross Road to the intersection of Fort Ross Road with the Middle Branch of Russian Gulch Creek, and then proceed south along that creek for approximately 1.2 miles to the intersection of that creek with the 920-foot elevation line, section 26, T8N, R12W; then

(20) Proceed generally south along the meandering 920-foot elevation line approximately 8.1 miles, passing back and forth on the Fort Ross and Arched Rock maps as the 920-foot elevation line meanders north then south around the West Branch of Russian Gulch, returning to the beginning point, T8N, R12W.

Signed: October 4, 2011.

**John J. Manfreda,**

Administrator.

Approved: October 20, 2011.

**Timothy E. Skud,**

Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).

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